



Nassau County
Office of Minority Affairs
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Minority/Women-Owned Business Enterprise Program

"Best Efforts Checklist"

Section 6. Requirements for County Contractors

1. County contractors are required to make best efforts to obtain M/WBE participation in subcontracts.
2. Contractors are required to get authorization from the Department Head prior to subcontracting any work and, at the time of such request for authorization, must submit a signed "best efforts checklist", to be provided by the Executive Director, affirming that it has made best efforts to obtain M/WBE participation.
3. In the case of projects under the supervision of the Department of Public Works, in addition to the signed "best efforts checklist" required by subdivision 2 of this section, contractors will be required to submit a utilization plan listing all proposed subcontractors so that, to the greatest extent feasible, all subcontractors will be approved prior to commencing work. Any additions or changes to subcontractors approved under the utilization plan must be approved by the Commissioner. A copy of the utilization plan and any additions or changes thereto shall be submitted by the contractor to the Office of Minority Affairs simultaneously with the submission to the Department of Public Works.
4. At any time after subcontractor approval has been requested and prior to being granted, the contracting agency may require the contractor to submit documentation, as described in paragraphs (a) through (g) of subdivision 5 of this section, to demonstrate that it employed best efforts to obtain M/WBE participation. In addition, the contracting agency may require the contractor to

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5. submit such documentation at any time after subcontractor approval when the contracting agency has reasonable cause to believe that the “best efforts checklist” may have been inaccurate. Within ten (10) working days of any such request by the contracting agency, the contractor must submit such documentation.
6. Best efforts include the following, provided that equivalent efforts may be approved by the Executive Director:
 - a. In any written advertisements and solicitations for subcontractors, the Contractor must specifically indicate its interest in receiving bids from M/WBEs and the requirement that subcontractors be equal opportunity employers. In addition, subcontracting opportunities must be advertised in at least two minority, trade or union publications, to be recommended by the Executive Director, in addition to publications of general circulation in Nassau County and surrounding areas or, where the Contractor has chosen not to publicly advertise for subcontractors, bids must be solicited by telephone, e-mail, facsimile or otherwise, from at least three certified M/WBEs whom the contractor reasonably believes might have the qualifications to do the work. Documentation shall include copies of any public advertisement and a list of the date(s) and names of the publications in which such advertisements appeared. If direct solicitation is used in the alternative to public advertisement, copies of e-mails, facsimile transmission reports, telephone logs or a prime contractor’s affidavit detailing time and dates of communication shall be required as part of the documentation.
 - b. The contractor is required to provide reasonable time, to the extent feasible given the timeframe of the County contract, for M/WBE subcontractors to respond to bid opportunities according to industry norms and standards. An outline of the

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schedule/time frame used to solicit and obtain bids from M/WBEs must be included with the best effort documentation.

- c. The contractor must have communication with potential M/WBE subcontractors who have previously expressed interest in the specific project. Thus, when a potential M/WBE subcontractor has, at any point prior to subcontract award, expressed an interest to the contractor in doing work under a particular contract, or when a County officer has indicated to the contractor that an M/WBE subcontractor has expressed an interest in doing work on the contract, the contractor must make follow-up telephone calls or have other communication, such as a personal letter or e-mail encouraging such participation. Telephone logs or copies of e-mails indicating such action, or affidavit detailing time and dates of communication, must be included with the best effort documentation.
- d. M/WBE subcontractors must be allowed to review bid specifications, contract drawings and all other bid/RFP related items at no charge to the M/WBEs, other than reasonable documented costs incurred by the prime contractor that are passed onto the M/WBE. If costs are imposed on the subcontractor, a statement detailing costs must be included with the best effort documentation.
- e. Negotiations must be held in good faith with interested M/WBEs, and M/WBEs may not be rejected as unqualified or unacceptable without sound business reasons based on (1) a thorough investigation of M/WBE qualifications and capabilities reviewed against industry custom and standards and (2) cost of performance or (3) other legal requirements. The basis for rejecting any M/WBE deemed unqualified by the prime contractor shall be included in the best effort documentation. If an M/WBE is rejected on the basis of cost, the contractor must provide copies or information detailing the cost proposals.

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- f. Contractors may not place unreasonable conditions of performance within the scope of work or otherwise impose artificial barriers to M/WBE subcontractor participation. Upon request for best effort documentation, the contractor shall submit a copy of the scope of work and a list of all other conditions of performance.
 - g. Contractors may include any other type of documentation they feel necessary to further demonstrate their best efforts.
6. The requirements of this section apply to both M/WBE and non-M/WBE prime contractors.